



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street

San Francisco, CA 94105-3901

November 21, 2007

Christopher Worthington
Bureau of Land Management
Battle Mountain Field Office
50 Bastian Road
Battle Mountain, NV 89820

Subject: Cortez Hills Expansion Project Draft Environmental Impact Statement (EIS),
Lander and Eureka counties, Nevada [CEQ# 20070410]

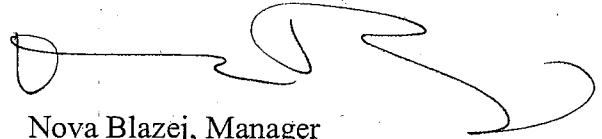
Dear Mr. Worthington:

The U.S. Environmental Protection Agency (EPA) has reviewed the above referenced document. Our review and comments are provided pursuant to the National Environmental Policy Act (NEPA), the Council on Environmental Quality (CEQ) NEPA Implementation Regulations at 40 CFR 1500-1508, and our NEPA review authority under Section 309 of the Clean Air Act.

We have appreciated the opportunity to work closely with you during the preparation of this Draft EIS consistent with the draft Memorandum of Understanding between the Nevada Bureau of Land Management and EPA on mining-related NEPA projects. We believe this process was helpful in early resolution of some issues involving geochemistry and air and water quality, which we raised during the EIS preparation process. We have a few outstanding issues, however, and recommend they be addressed in the Final EIS. We have, therefore, rated this Draft EIS as EC-2 (see enclosed "Summary of Rating Definitions and Follow-Up Action"). Our rating on this document is based on our concerns regarding wetland/riparian habitat mitigation and reclamation and post-closure financial assurance. We recommend the Final EIS include additional information regarding the wetland/riparian habitat mitigation plan, financial assurance for reclamation activities and post-closure mitigation and monitoring, and mercury emissions to air.

We request a copy of the Final EIS when it is filed with our Washington, D.C. office. If you have any questions, please call me at (415) 972-3846, or have your staff call Jeanne Geselbracht at (415) 972-3853.

Sincerely,

A handwritten signature in black ink, appearing to read "Nova Blazej", with a long horizontal stroke extending to the left.

Nova Blazej, Manager
Environmental Review Office

004743

Enclosures: EPA's Summary of Rating Definitions and Follow-Up Action
EPA's Detailed Comments

Cc: David Gaskin, Nevada Division of Environmental Protection

SUMMARY OF EPA RATING DEFINITIONS

This rating system was developed as a means to summarize EPA's level of concern with a proposed action. The ratings are a combination of alphabetical categories for evaluation of the environmental impacts of the proposal and numerical categories for evaluation of the adequacy of the EIS.

ENVIRONMENTAL IMPACT OF THE ACTION

"LO" (Lack of Objections)

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

"EC" (Environmental Concerns)

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

"EO" (Environmental Objections)

The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

"EU" (Environmentally Unsatisfactory)

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the CEQ.

ADEQUACY OF THE IMPACT STATEMENT

Category 1" (Adequate)

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

"Category 2" (Insufficient Information)

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analysed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

"Category 3" (Inadequate)

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analysed in the draft EIS, which should be analysed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

*From EPA Manual 1640, "Policy and Procedures for the Review of Federal Actions Impacting the Environment."

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EPA Comments – November, 2007**

Vegetation and Wildlife Resources

Losses of wetland/riparian habitat would result from filling for project facilities and from groundwater drawdown. The DEIS (p. 3.4-24, 3.5-41) indicates that Cortez Gold Mines would coordinate with the Bureau of Land Management (BLM) to develop new riparian/wetland areas and/or enhance existing areas off-site to compensate at a 2:1 ratio for the loss of this habitat. Riparian/wetland habitat creation and/or enhancement may take some time to become established. This plan should be developed and implemented prior to project construction to avoid lag time between when the impacts occur and when the compensation habitat is able to meet the functions and values it is replacing.

Recommendation: We recommend BLM include the wetland/riparian mitigation plan in the Final EIS. The plan should describe the new or enhanced mitigation sites, including their locations, existing values and functions, and the goals for future values and functions. The plan should specify who will be responsible for plan implementation and monitoring and describe contingency measures should the initial plan fail to meet specified goals. We recommend that the plan be initiated as soon as possible after the Record of Decision is finalized to minimize a temporal loss of this habitat.

Reclamation and Closure

The Draft EIS does not address the closure and reclamation bond that will be required by BLM and the State of Nevada for this project. EPA believes this information is important in the EIS because the adequacy of the bond affects the efficacy of the reclamation plan, which is critical to long-term protection of environmental resources.

Recommendation: We recommend that the Final EIS identify the estimated bond amounts for each closure and reclamation activity. Also discuss how BLM can modify the bond during the course of operations if temporary, long-term, or perpetual treatment and/or remediation needs are discovered during operations. Identify who would be responsible for any post-closure cleanup actions should they be necessary.

It is unclear how the long-term monitoring and mitigation fund, established for earlier phases of the Cortez and Pipeline/South Pipeline mines, will be updated and applied to the proposed project.

Recommendation: The Final EIS should describe this fund, including the terms of the fund and how it has been performing, and discuss how it meets the requirements of 43 CFR 3809.552 and 555. The Draft EIS should indicate whether and how the fund will be updated to meet the potential long-term monitoring and mitigation needs for the proposed action.

Air Resources

The Draft EIS provides a detailed discussion of direct and cumulative mercury emissions to air. The discussion includes stationary source mercury emissions from 2006 and describes their sources and operational hours per year. The Draft EIS indicates that, while the existing Pipeline Mill may be expanded to increase throughput capacity from 13,500 tons per day to 15,000 tons per day, mercury releases are likely to decrease to below 2006 levels when additional controls are installed on the retort and electrowinning cells. It is unclear whether, under the proposed project, potential increases in throughput and/or changes in mercury concentrations in the ore could increase mercury emissions from the mill relative to the 2006 emissions.

Recommendation: The Final EIS should clarify whether, under the proposed project, potential increases in throughput and/or changes in mercury concentrations in the ore are expected to increase mercury emissions from the mill relative to the 2006 emissions, and provide an estimate of those emissions.